

NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special Meeting of the **Tracy City Council** is hereby called for:

Date/Time: **Tuesday, December 13, 2022, 6:00 p.m.**
(or as soon thereafter as possible)

Location: **Tracy City Hall**
333 Civic Center Plaza, Tracy, CA.

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

This meeting will be open to the public for in-person and remote participation pursuant to Government Code Section 54953(e)

The City of Tracy remains under a local emergency for COVID-19 and is now conducting teleconference meetings pursuant to State Law. Teleconferenced locations may include various locations including Tracy City Hall. In accordance with the California Department of Public Health Guidelines, universal masking is recommended for all persons regardless of vaccination status and social distancing protocols will be in place for Tracy City Hall.

For Remote Public Comment:

During the Items from the Audience, public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2559 878 6237** and **Event Password: TracyCC**
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing “Anonymous” when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing +1-408-418-9388**, enter 25598786237#8722922# Press *3 to raise the hand icon to speak on an item

- *Protocols for commenting via WebEx:*
 - *If you wish to comment under “Items from the Audience/Public Comment” portion of the agenda:*
 - *Listen for the Mayor to open “Items from the Audience/Public Comment”, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the “Items from the Audience/Public Comment” will be accepted until the public comment period is closed.*

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL

1. Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure*, adopted by Resolution 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.
2. CONSENT ITEMS
 - 2.A ADOPT THE DECEMBER 6, 2022, REGULAR MEETING MINUTES.
 - 2.B CITY COUNCIL ADOPT A RESOLUTION MAKING FINDINGS AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND ALL LEGISLATIVE BODIES OF THE CITY OF TRACY FOR THE PERIOD FROM DECEMBER 14, 2022, THROUGH JANUARY 12, 2023, PURSUANT TO THE BROWN ACT.
3. DISCUSSION ITEMS
 - 3.A ADOPT A RESOLUTION RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD IN THE CITY OF TRACY ON NOVEMBER 8, 2022, AND DECLARING THE RESULTS OF THE ELECTION AND SUCH OTHER MATTERS AS PROVIDED BY LAW.
 - 3.B PRESENTATION TO OUTGOING COUNCIL MEMBER
 - 3.C ADMINISTER OATH OF OFFICE AND SEAT NEW COUNCIL MEMBER
 - 3.D THE CITY COUNCIL, BY MOTION, APPOINT A COUNCIL MEMBER AS THE MAYOR PRO TEMPORE OF THE TRACY CITY COUNCIL FOR A TWO-YEAR TERM ENDING IN DECEMBER 2024.
4. COUNCIL ITEMS AND COMMENTS
5. ADJOURNMENT



Mayor

Posting Date: December 9, 2022

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

December 6, 2022, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Young called the meeting to order at 7:12 p.m.

Mayor Young led the Pledge of Allegiance.

Priest Atul Batra, Sant Nirankari Mission provided the invocation.

Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas and Mayor Young present.

Michael Rogers, City Manager presented the December Employee of the Month Award to Corporal Erik Speaks, Police Department.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.O by Karen Moore motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
 - 1.A Adopt the November 15, 2022, Closed Session and Regular Meeting Minutes. – **Minutes were adopted.**
 - 1.B Adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from December 7, 2022 through January 5, 2023 pursuant to the Brown Act. – **Resolution 2022-181** adopted the findings and re-authorized remote teleconference meetings.
 - 1.C Adopt a resolution authorizing the appointment of five youth Commissioners to the Youth Advisory Commission based upon the interview and selection panel recommendations – **Resolution 2022-182** authorized the appointment of five youth commissioners to the Youth Advisory Commission.
 - 1.D Adopt a resolution approving an amendment to a Professional Services Agreement with Harris & Associates, Inc. to extend the term for an additional one year with a not to exceed amount of \$100,000 for administrative, engineering, and financial services for the Tracy Consolidated Landscape Maintenance District. - **Resolution 2022-183** approved the amendment to the Professional Services Agreement with Harris & Associates, Inc.
 - 1.E Adopt a Resolution Adopting the Regular Meeting Calendar of the Tracy City Council for Calendar Year 2023. – **Resolution 2022-184** adopted the Regular Meeting Calendar of the City Council for Calendar Year 2023.

- 1.F City Council 1) adopt a resolution approving a Quitclaim Deed for the conveyance of a three (3) foot wide temporary construction easement back to Tracy Alliance Group, LLC, and 2) authorize the City Clerk to sign the Quitclaim Deed and file the Deed with the Office of the San Joaquin County Recorder – Resolution 2022-185 adopted a Quitclaim Deed for the conveyance of three-foot temporary construction easement back to Tracy Alliance Group.
- 1.G Adopt a resolution declaring certain vehicles and equipment as surplus and approving their sale at public auction. – Resolution 2022-186 declared certain vehicles and equipment as surplus and approved their sale at public auction.
- 1.H Adopt a Resolution authorizing 1) amendments to the City’s Classification and Compensation Plans and Master Salary Schedule to increase the salary of the Economic Development Manager position, enable the internal alignment of various classifications, and comply with mandatory State minimum wage increases effective January 1, 2023, and 2) the adoption of a Compensation Philosophy as a guiding document for compensation. – Resolution 2022-187 amended the City’s Classification and Compensation Plans and Master Salary Schedule for various positions and classifications and adopted a Compensation Philosophy.
- 1.I Approve the Inspection Improvement Agreement for Tract 4135, Tracy Hills Village 7, in Tracy Hills Phase 2 between City and Lennar Homes of California, LLC to proceed with the construction of street and utility improvements. – Resolution 2022-188 approved the Inspection Improvement Agreement for Tract 4135, Tracy Hills Village 7 in Tracy Hills Phase 2.
- 1.J Approve the Inspection Improvement Agreement for Tract 4136, Tracy Hills Village 8, in Tracy Hills Phase 2 between City and Lennar Homes of California, LLC, to proceed with the construction of street and utility improvements. – Resolution 2022-189 approved the Inspection Improvement Agreement for Tract 4136, Tracy Hills Village 8 in Tracy Hills Phase 2.
- 1.K Approve the Inspection Improvement Agreement for Tract 4137, Tracy Hills Village 9, in Tracy Hills Phase 2 between City and Lennar Homes of California, LLC to proceed with the construction of street and utility improvements. – Resolution 2022-190 approved the Inspection Improvement Agreement for Tract 4137, Tracy Hills Village 9 in Tracy Hills Phase 2.
- 1.L Approve the Inspection Improvement Agreement for Tract 4138, Tracy Hills Village 10, in Tracy Hills Phase 2 between City and Lennar Homes of California, LLC, to proceed with the construction of street and utility improvements. – Resolution 2022-191 approved the Improvement Agreement for Tracy 4138, Tracy Hills Village 10 in Tracy Hills Phase 2.
- 1.M Adopt a Resolution (1) the City Council reject all bids for the El Pescadero Park Sound Wall Extension Project, CIP 71116, (2) that CIP 71116 be closed, and (3) that the remaining project funds be returned to the General Projects Fund (F301) fund balance. – Resolution 2022-192 rejected all bids for the El Pescadero Park Sound Wall Project, CIP 7116, closed CIP 7116 and returned remaining project funds to the General Projects Fund (F301) fund balance.

- 1.N Approve the Offsite Improvement Agreement for the MacArthur Retail Center between City and Winters Gateway, Inc., for the roadway improvements, utility connections, and overhead utility undergrounding improvements in connection with applications D19-0012, and G21-0008. – Resolution 2022-193 approved the Offsite Improvement Agreement with Winters Gateway, Inc. for the MacArthur Retail Center.
- 1.P Approve the Offsite Improvement Agreement between City, Woodside 05N, LP, and Surland Communities, LLC for the construction of Detention Basin 3A. – Resolution 2022-194 approved the Offsite Improvement Agreement with Woodside 05N, LP, and Surland Communities, LLC.
- 1.O City Council, for the Valpico Glenbriar Apartment Project located at Valpico Road and MacArthur Drive (Apartments Project): (1) Waive the second reading and adopt an Ordinance: (A) Adopting a Negative Declaration for the expansion of the Apartments Project parking lot to include a portion of the rear yard of the property located at 2625 S. Macarthur Drive (Parking Site) in accordance with the California Environmental Quality Act (CEQA); (B) Approving a General Plan Amendment redesignating the Parking Site from Commercial to Residential High (GPA22-0003); (C) Amending the Zone District of the Parking Site from Community Shopping Center to High Density Residential (R22-0002); (D) Approving a Development Review Permit expanding the Valpico Glenbriar Apartment Parking Lot to include a portion of the rear yard at 2625 S. MacArthur Drive (D22-0013); and (2) Adopt a Resolution (A) Determining the addition of a perimeter fence/gate to the Valpico Glenbriar Apartments Project located at 351 E. Valpico Road (Application Number D22-0005) is exempt from CEQA pursuant to CEQA Guidelines Section 15303(e), and (B) Approving a Development Review Permit for the addition of a perimeter fence and gates to the Apartments Project site.

Karen Moore pulled the item to request Council not waive the second reading of the ordinance text and review the presentation previously sent which explains the General Plan and how it came down through SB 375 and Environmental Action Plan and talks about not being gated because of connectivity and explain why the City is discouraging doing gated communities.

Bill Dean, Assistant Development Services Director provided the staff report and answered questions.

Council questions followed.

Dotty Nygard spoke about the General Plan stating the City is refraining from gated communities to have a flow within our community to try connecting neighborhoods and shared concerns regarding the case-by-case basis because it does not follow the General Plan guidelines. Ms. Nygard stated it is an issue we have had in the past through the General Plan, and she hoped we would be consistent and allow conversation to be more in depth.

Cyril Carag asked when the building on Valpico is slated to be completed.

A project representative responded the project will be finished in March.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt Consent Item 1.O adopting **Ordinance 1334**, and **Resolution 2022-195** determining the addition of a perimeter fence/gate to the Valpico Glenbriar Apartments Project. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Dan Grant stated there is a problem on Windler Ave between 9th and 10th Streets. There is a loss of communication between the Fire Department and risk team for getting curbs painted red. A lot of no parking signs have been ripped down, have spent four months trying to get them replaced, had six accidents within four months. Mr. Grant asked the City to reach out to the Fire Department.

Mayor Young asked staff to follow up to understand the delineation of responsibility for what the issues are.

Robert Tanner shared his concerns regarding candidates receiving out of state and out of county campaign funds, and he hoped the next race will have local money.

Pete Moyer stated the Board of Supervisors has voted twice to close Hansen Road. Prologis is designing gates for both ends to satisfy the Fire Marshall and the County and asked for Council support. Mr. Moyer added on Sunday night at 6:30 p.m. there were cars doing a sideshow and when Police showed up they came down his road two or three abreast with Police in pursuit but they cannot match the cars.

John Tocchini thanked the City for working with the County to close Hansen Road which can stop the dangerous driving and accidents, the item should be on the agenda soon.

Wendy Tocchini shared a proposed scenario of an accident on Hansen Road and stated San Joaquin County is ready to complete closure but is waiting for the City to do the south side and asked Council to approve the closure of Hansen at their earliest convenience.

A member of the public spoke about the overpass with cement barriers and shared an experience with a truck speeding over the overpass. Sunday night there was a sideshow of cars speeding down Hansen Road and going over the lanes with CHP in pursuit.

Pat and Dale Brandes stated due to the Prologis warehouse development on Hansen Road south of Highway I-205, the community of Lammersville has been experiencing dangerous illegal truck and car traffic on Hansen Road north of Highway I-205. San Joaquin County is addressing these issues by closing Hansen Road at the I-205 overpass with automated gates that allow for emergency vehicle access and requested that the City of Tracy support and approve this action in coordination with the County, Prologis and Emergency Responders.

3. REGULAR AGENDA

- 3.A City Council receive the annual report by the Measure V Residents' Oversight Committee presenting their findings regarding the use of Measure V funds.

Jayden Sangha, Measure V Residents' Oversight Committee Member provided the presentation and responded to questions.

Council comments and questions followed.

Sara Cowell, Finance Director responded to questions.

Karen Moore stated she was very involved with Measure V funding and voted in support of Measure V. Citizens input on the survey indicated the top amenity was a new full-fledged library that functions for a city. Ms. Moore shared concerns regarding interest going into the General Fund and not Measure V, should be going to amenities citizens voted for and supported the report.

Dan Evans stated he had the pleasure of serving on the Measure V Residents' Oversight Committee, an important committee and will be stepping away from commission as will be on Council.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to accept the annual report as presented by the Measure V Residents' Oversight Committee. Roll call found all in favor; passed and so ordered.

Mary Mitracos asked if Council is accepting the recommendations or do they have to be voted on separately adding it would be more efficient to accept the recommendations.

Mayor Young responded the item is to receive the report and not take any action.

Bijal Patel, City Attorney confirmed this is not a public hearing, it is an informational item where Council is receiving the report. Any other actions Council needs to take is a separate item.

- 3.B Adopt an Ordinance: 1) repealing the 2019 edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, Existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under Tracy Municipal Code Title 9; 2) making findings to substantiate modifications to the 2022 California Building Codes and Standards, due to local climatic, geological or topographical conditions; 3) adopting, with local amendments, the 2022 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) adopting Appendices C, F, H, I, K, P under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices H, I, O, R, S, W, Y, Z under the Residential Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, and O under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) adopting California Environmental Quality Act Exemption Findings.

Mayor Young opened the public hearing.

Christopher Morgan, Building Official provided the staff report and responded to questions.

Karen Moore shared she has attended meetings with the California Energy Commission and California Air, San Joaquin Valley Air Board and stated there are studies proving that natural gas that we run create health issues for greenhouse gases and for health issues for asthmatics and will be moving away from natural gas. Ms. Moore supported the item as it is better for people and environment.

Council questions and comments followed.

Mayor Young closed the public hearing.

Adrienne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to waive the reading of the full text and introduce an ordinance 1) Repealing the 2019 Edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under the Tracy Municipal Code Title 9; 2) Making findings to substantiate modifications to the 2022 California Building Codes and Standards, due to local standards, due to local climatic, geological, or topographical conditions; 3) Adopting with local amendments, the 2022 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) Adopting Appendices C, F, H, I, K, P under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices H, I, O, R, S, W, Y, Z under the Residential Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, and O under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) Adopting California Environmental Quality Act exemption findings. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt a Resolution setting forth findings to support local amendments to the 2022 California Code of Regulations, Title 24 Parts 1-12, by the Building Safety Division of the Development Services Department and the Community Risk Reduction Division of the South San Joaquin County Fire Authority. The adoption of this Ordinance is exempt from CEQA pursuant to Section 15061 (B)(3), the "Common Sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268. Roll call found all in favor; passed and so ordered.

Following regular item 3.D, as advised by the City Attorney, City Council rescinded the resolution under item 3.B due to a technical error.

- 3.C Adopt a resolution: (1) dispensing, retroactively and prospectively, the bidding requirements under the California Public Contract Code (PCC) and Tracy Municipal Code (TMC) Section 2.20.260 for construction of interim housing solutions to address the City of Tracy's shelter emergency (previously declared under Resolution No. 2022-121 and California Government Code Section 8698.4); (2) authorizing the City Manager to take any directly related and immediate actions required by the shelter emergency, without giving notice for bids to let contracts, pursuant to PCC Section 22050 and TMC section 2.20.270(a); and (3) adopting requisite findings under the California Environmental Quality Act.

Karin Schnaider, Assistant City Manager provided the staff report.

Cyril Carag asked how many people are homeless in Tracy.

Council questions and comments followed.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2022-196** (1) Dispensing, retroactively and prospectively, the bidding requirements under the California Public Contract Code (PCC) and Tracy Municipal Code Section (TMC) 2.20.260 for construction of interim housing solutions to address the City of Tracy's shelter emergency (previously declared under Resolution No. 2022-121 and California Government Code Section 8698.4); (2) Authorizing the City Manager to take any directly related and immediate actions required by the shelter emergency, without giving notice for bids to let contracts, pursuant to PCC Section 22050 and TMC 2.20.270(A); and (3) Adopting requisite findings under the California Environmental Quality Act. Roll call found all in favor; passed and so ordered.

- 3.D Staff recommends that the City Council adopt a resolution (1) ratifying, retroactively and prospectively, the following two construction contracts: (a) Tennyson Electric, Inc. (Tennyson) in the amount of \$125,000 for work performed and \$125,000 in anticipated work; (b) Tracy Grading & Paving (Tracy Grading) in the amount of \$220,000 for work performed; (2) (a) Authorizing an appropriation of \$470,000 from the City of Tracy's General Fund to fund the Tennyson and Tracy Grading contracts; and (b) amending the FY 2022-23 operating and capital budget to reflect such appropriation; (3) granting, retroactively and prospectively, to the City Manager additional authority to execute change orders to the contract awarded to GradeTech, Inc. for Capital Improvement Project (CIP) 71112 Arbor Temporary Emergency Housing Project in the original amount of \$1,978,480 as follows: (a) \$790,000 for work performed; and (b) \$300,000 in anticipated work; and (4) adopting requisite findings under the California Environmental Quality Act.

Karin Schnaider, Assistant City Manager provided the staff report.

Council questions and comments followed.

Kris Bajali, Development Services Director responded to questions.

Cyril Carag asked when various vendors were bidding on job were they not bidding to do x,y and z for a certain price and why is there such a huge difference from the original amount.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2022-197** (1) ratifying, retroactively and prospectively, the following two construction contracts: (A) Tennyson Electric, Inc.(Tennyson) in the amount of \$125,000 for work performed and 125,000 in anticipated work; (B) Tracy Grading & Paving (Tracy Grading) in the amount of \$220,000 for work performed; (2) (A) authorizing an appropriation of \$470,000 from the City of Tracy's General Fund to fund the Tennyson and Tracy Grading Contracts; and (B) amending the FY 2022-23 Operating and Capital Budget to reflect such appropriation; (3) granting, retroactively and prospectively, to the City Manager additional authority to execute change orders to the contract awarded to Gradetech, Inc. for Capital Improvement Project (CIP) 71112 Arbor Temporary Emergency Housing Project in the original amount of \$1,978,480 as follows: (A) \$790,000 for work performed; and (B) \$300,000 in anticipated work; and (4) adopting requisite findings under the California Environmental Quality Act. Roll call found all in favor; passed and so ordered.

Bijal Patel, City Attorney announced there was a technical error under Agenda **Item 3.B**. There was an administrative oversight and the Resolution Council adopted should not have been included in the vote as it was not on the agenda. It was an older attachment that made it into the packet and requested Council to rescind that resolution.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to rescind the previous motion on item 3.B to adopt a resolution setting forth findings to support local amendments to the 2022 California Code of Regulations, Title 24 Parts 1-12, by the Building Safety Division of the Development Services Department and the Community Risk Reduction Division of the South San Joaquin County Fire Authority. The adoption of this Ordinance is exempt from CEQA pursuant to Section 15061 (B)(3), the "Common Sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268. Roll call found all in favor; passed and so ordered.

3.E Adopt a Resolution authorizing 1) amendments to the Employment Agreement dated December 13, 2021, between Michael Rogers and the City of Tracy, to reflect a merit increase of 6% for an annual base salary of \$286,536 and other increases to total compensation and benefits, and 2) amending the Master Salary Schedule relating to the City Manager, effective December 11, 2022, to reflect such amendments.

Mayor Young provided the staff report.

Kimberly Murdaugh, Human Resources Director responded to questions.

Cyril Carag asked about the City Manager salary increase and when was the last salary increase approved for this position.

A caller asked if Michael Rogers can ask for a raise with salary he has already agreed to. Does that mean the salary does not cover his costs or does that go for all City Managers that have served for more than one year. Regarding the housing project, asked if the change orders for housing will continue, and guarantee parks will be free of less fortunate homeless people or a temporary solution.

Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt **Resolution 2022-198** authorizing 1) amendments to the Employment Agreement dated December 13, 2021, between Michael Rogers and the City of Tracy to reflect a merit increase of 6% for an annual base salary of \$286,536 and other increases to total compensation and benefits, and 2) amending the Master Salary Schedule relating to the City Manager, effective December 11, 2022, to reflect such amendments. Roll call found Council Members Arriola, Davis, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Bedolla opposed.

3.F City Council 1) adopt a resolution approving the City's response to the 2021/2022 San Joaquin County Grand Jury Report on Cybersecurity, Case No. 0321 (2021/2022), and 2) authorize the Mayor to sign the Response Letter.

Karin Schnaider, Assistant City Manager provided the staff report.

There were no Council comments.

There was no public comment.

ACTION: Motion was made by Council Member Davis and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2022-199** 1) adopting the City's response to the 2021/2022 San Joaquin County Grand Jury Report on Cybersecurity, Case No. 0321 (2021/2022), and (2) authorizing the Mayor to sign the response letter. Roll call found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – Adrienne Richardson, City Clerk announced two comments were received regarding the closure of Hansen Road from Jake Ivester and Dale and Patricia Brandes.
5. STAFF ITEMS – Michael Rogers, City Manager thanked Council for the previous action that took place, the city for welcoming him and his family, and the opportunity he has been given in the City of Tracy. Mr. Rogers provided an update on the following:
 - Hospice of San Joaquin Tree Lighting Ceremony happening at City Hall tomorrow at 5:30 p.m.
 - Regular meeting of the Planning Commission at 7:00 p.m. tomorrow.
 - Lawrence Livermore Lab is holding a public hearing in Council Chambers on Thursday about their Draft Site-Wide Environmental Impact Statement for continued operation of the national laboratory. They will have a poster session from 6:00 - 6:30

p.m., with the formal program and public comment from 6:30-8:30 p.m. They will also be having a virtual meeting via Zoom on December 13th. Visit lnl.gov for more information.

- Our Transportation Advisory Commission meeting scheduled for Thursday at 7:00 p.m. has been moved upstairs to room 203, where they will receive an update on the temporary traffic signal operation and status of a permanent signal at the intersection of Valpico and Corral Hollow Road. That meeting will be open to the public for both in-person and remote participation - visit CHcorridor.com for details.
- Staff looks forward to hosting our third multi-generational recreation center community workshop on Monday, December 12th at 6:00 p.m. at North School. More information can be found on the City calendar at CityOfTracy.org.
- Between December 26th through January 13th, residents can place their holiday tree curbside on your weekly collection day for recycling pick-up – please ensure it is free of tinsel, ornaments, nails, or stands and cut it in half if larger than 6 feet tall.
- Homeless Advisory Committee will not be meeting in December and will meet in January at the regular scheduled meeting.

6. COUNCIL ITEMS – Council Member Davis requested support for a memo outlining how the Police Department responded to the huge sideshow on Grant Line Road, what steps the Police Department is taking to discourage future sideshows in our community, how many vehicles were impounded, how many spectators were cited or arrested and how many officers were on duty that night. Mayor Pro Tem Vargas seconded the request for a memo.

Council Member Davis requested support for re-evaluating what the City of Tracy considers fully staffed sworn-in Police Officers. There has been a lot of crimes and we need to re-evaluate if we have enough officers on the streets. Council Member Davis stated she was told there are only six Police Officers at night and need more. Council Member Arriola supported the request. Council Member Davis clarified she would like the re-evaluation to come before Council.

Michael Rogers, City Manager responded that during the budget process this will be discussed and it would be a great opportunity for the Chief to provide an update or a foreshadowing of some of the items that will be coming before the budget process.

Council Member Davis stated Mr. Moyer and Mr. and Mrs. Tocchini brought up what Council has talked about before regarding improvements on Hansen Road and remembers asking when the City was going to be making movement on some of the improvements Prologis is expected to do. Also, how the City can support that community and accelerate any improvements that would better their quality of life which sounds increasingly dangerous.

Mayor Pro Tem Vargas asked if the neighborhood is in the city or county and how that neighborhood came to be without thinking forward the roadways related to the City.

Mr. Rogers responded the neighborhood is not in the City of Tracy but down the road there is a commercial development south that is in the City and has been planned for quite a few years. Environmental Impact Statements and other things have been a part of that whole process for numerous years.

Mayor Pro Tem Vargas asked if the road is a city or county road.

Mr. Rogers responded there are portions of the road that are in the City, it adjoins the City of Tracy and the Lammersville Community which is County.

Mayor Pro Tem Vargas stated the closure of the road seems dangerous and how that affects our Roadway Master Plan. Seems like a more in-depth conversation and asked if the request is to bring back a conversation or to just go ahead and sign off on this.

Council Member Davis responded it is a previous request she made asking when Prologis is expected to complete their commitments to roadway improvements which is within the City limits and also the City has already determined in the past that we are in support of the residents of Hansen Road and the closure.

Mayor Pro Tem Vargas stated she did not remember that.

Mr. Rogers responded staff will send a memo out this week.

Mayor Pro Tem Vargas asked if this body has moved forward with a support of the road.

Mr. Rogers responded this item has not come before this body and this is why we are going to be providing a memo to the Council.

Mayor Pro Tem Vargas stated she wanted to make sure clear expectations and factual information is given; this body has not supported the closure of the road and that conversation has not come forward in front of Council for discussion.

Council Member Davis stated she knows that Council has not voted on anything but have heard Mr. Balaji express support for that closure on the dais.

Mr. Rogers responded staff does support the item and are working with Prologis and the County in a way that can be a win win situation for everyone that promotes safety in the entire area. Also looking at those items that are a part of the whole General Plan trying to ensure other roadways, other relief valves are worked on and improved as quickly as possible. Will make sure it is documented in the memo and once we have the memo to Council, we are open for further discussion with all of Council.

Mayor Pro Tem Vargas responded she wants to make sure that the public in our community and the neighboring community are safe. The pros and cons in the memo will be very helpful.

Council Member Davis stated a caller mentioned the community prioritized a Library in the past and asked where we are with the Library and an update from the County on what is being done on the existing library. Council Member Arriola seconded the memo.

Council Member Davis asked where we are with a future hospital, is interested in what that looks like, if we are still doing that, who are we talking to about it and if not can we start the conversation about bringing a trauma ready hospital to the City of Tracy. Mayor Pro Tem Vargas supported the request.

Council Member Davis asked if Council could have a conversation about signage or notices to residents to notify when the street sweepers are out. Signage sounds like a good idea.

Mr. Rogers responded staff just had a meeting on this and are looking at all of those types of things and improving the street sweeping operations. That is in the works, as soon as we finalize that staff will brief Council on the potential recommendations.

Midori Lichtwardt, Assistant City Manager provided an update on the location of the street sweeping schedule on the City's website.

Mayor Young stated she has asked about it before and it was very convoluted, education is important and shared that signage in L.A. is very clear. May need to consider something on a bigger level. Council Member Davis concurred.

Council Member Arriola provided an update on East Bay Community Energy regarding approval of 24/7 public EV fast charging stations which means territory of Alameda County and Tracy and Stockton will be having between 40 or 50 EV fast charges set up by 2030. Council Member Arriola announced he is proud he has been selected as the next Chair for EBCE. Council Member Arriola spoke about the Emergency Shelter visit and gave kudos to staff for the progress made. There are 46 people who are indoors, accessing services and within the first two weeks, four individuals entered and exited the shelter to transitional housing. That is transformative for individual lives, and we should recognize and celebrate those wins.

Council Member Arriola stated as the City of Tracy grows by the next election, we will be over 100,000 people, and requested support to bring back an item to assess the viability of the restructuring of Council and essentially looking at Council districts and the viability of a two versus four-year Mayoral term and viability of a full time Mayor. Mayor Pro Tem Vargas supported the request.

Karin Schnaider, Assistant City Manager stated on December 1, 2022 a Request for Qualifications (RFQ) was issued for a demographics mapping and outreach services to begin the districting process and the RFQ will close on December 15 and a contract will be before Council in January 2023. The Mayoral two-year term was a referendum and would require a vote to change.

Mayor Pro Tem Vargas stated we understand the vote and still think it is worth going to the vote.

Council Member Arriola wished everyone to be safe out there during holiday celebrations.

Mayor Pro Tem Vargas asked for support for a memo updating Council on where we are with the specific plan for downtown and TOD and what efforts have been done in the last two years and when the specific plan will be coming back before Council for adoption. Mayor Young supported the request.

Mayor Pro Tem Vargas asked for clarification from staff that the Environmental Sustainability Plan and the Environmental Sustainability Commission discussion is coming up.

Ms. Schnaider responded it is going to be a combination of that topic as well as other commissions and committees and yes, it is planned.

Mayor Pro Tem Vargas stated as we prepare for the Environmental Sustainability Plan, can we make sure the Urban Forest and Irrigation Plan and maintenance for irrigation is part of sustainability plan.

Ms. Schnaider responded the first action is to form the committee which will come to Council in January 2023 and then it can be part of the scope after it is formed.

Mayor Pro Tem Vargas provided an update on the LOCC leadership conference she attended last week where the Cal Cities adopted the 2023 priorities. Mayor Pro Tem Vargas also provided an update on Valley Link meetings.

Council Member Bedolla requested a memo informing Council of the impacts to the City should Valley Link decide to start implementing the results from the supplemental EIR. The understanding is a stop at Mountain House and Tracy would solely get an operation facility. Council Member Davis supported.

Council Member Bedolla stated some cities have a dedicated Community Development Director and a Youth Coordinator or a youth-oriented position. There is nothing for youth to do in Tracy and requested a memo on the benefit of having a dedicated Community Development Director and youth orientated or director level position that is focused on developing more youth opportunities.

Ms. Schnaider responded that is currently in our recreation. In the last two weeks we brought on our first teen and youth recreation coordinator. It is the first in over a decade that has been part of the City team and part of budget augmentation the Council adopted. Will have Parks Director send a memo introducing that staff member to Council.

Council Member Bedolla requested information on the benefit of having a dedicated Community Development Director. We have planning, engineering but have seen some cities that have that position staffed and takes a more holistic approach.

Ms. Schnaider stated our titles here are different. The function of Development Services and Parks and Community Services would partner together, it is a combination of more of any kind of functionality of titles.

Council Member Bedolla stated he gets how different positions can connect but have seen other success stories where this is something they believed in.

Ms. Lichtwardt asked how Council Member Bedolla envisioned that role and provided a history of the City's past Community Development Department and the creation of the Development and Engineering Services and putting engineering and planning together for efficiency. Community Development may be a function but could be planning and building which is part of Development Services.

Council Member Bedolla retracted the Community Development Council item and stated he will do more homework on that and regroup and come back. He is looking for more employees in the City that are focused on opportunities for young people.

Mayor Young stated Consent Item 1.C appointed five people to serve Youth Advisory Commission, and there may be an opportunity to utilize that vehicle to highlight and bring back other opportunities.

Mayor Young reported on the recent Cal Cities Leadership conference and board meeting in Monterey and setting priorities for 2023 which have been published. Mayor Young stated Consent Item 1.E was not pulled but there are a number of meetings that will not take place in 2023: July 4 is a holiday but established a meeting on July 5 to replace it. July 18 there will not be a meeting and August 1 is National Night Out. We will also not be having a meeting on December 20, 2022, but there will be a special meeting on December 13, 2022 at 6:00 p.m. The Flaming Ukes will be in the lobby at 5:00 p.m. and there will also be a reception in lobby for outgoing and incoming Council Members. Mayor Young thanked TCCA for the lights parade.

7. ADJOURNMENT – Time: 10:06 p.m.

ACTION: Motion was made by Council Member Davis and seconded by Mayor Pro Tem Vargas to adjourn. Roll call found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on December 1, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

Agenda Item 2.B

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from December 14, 2022 through January 12, 2023 pursuant to the Brown Act.

EXECUTIVE SUMMARY

AB 361 allows legislative bodies to use abbreviated teleconferencing procedures during a declared state of emergency upon the making of required findings. These abbreviated procedures allow a body to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953 of the Ralph M. Brown Act (Cal. Gov. Code section 54950 – 54963).

BACKGROUND AND LEGISLATIVE HISTORY

On March 17, 2020, the City Council of the City of Tracy ratified the declaration of an emergency by the City Manager due to COVID-19 in accordance with Chapter 3.26 of the Tracy Municipal Code. The City Council subsequently adopted resolutions with requisite findings authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy, including Boards and Commissions, pursuant to AB 361.

While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool. Due to this increase, the City reinstated social distancing protocols at in-person attendance at City Hall and encouraged the use of teleconferencing for City Council meetings.

On December 6, 2022, City Council adopted Resolution 2022-181, which made findings and authorized remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy, including Boards and Commissions, for the period of November 16, 2022 through December 15, 2022. In order to maintain compliance with Section 54953(e) of the Ralph M. Brown Act (Gov. Code section 54950 – 54963) which allows the continued use of teleconferencing, Council must make the required findings and re-authorize remote teleconferencing meetings of the legislative bodies for the City of Tracy.

This item requests that the City Council approve this proposed action for continued compliance with the Brown Act.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021, for public agencies to transition back to public meetings held in full compliance with the Brown Act.

As the Delta variant has surged in California, the Legislature took action to extend the COVID-19 exceptions to the Brown Act's teleconference requirements, subject to some additional safeguards. On September 16, 2021, Governor Newsom signed Assembly Bill 361, to allow a local agency to use teleconferencing if certain circumstances exist without complying with the Brown Act's traditional agenda posting, physical access, and quorum requirements for teleconferencing provisions (Attachment A).

The goal of AB 361 is "to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options" consistent with Executive Order N-29-20. The bill contains an urgency clause, which made the bill effective upon signing with a sunset date of January 1, 2024.

The new Section 54953(e)(1) of the Brown Act, as amended by AB 361, allows legislative bodies to continue to meet via teleconference without complying with the Brown Act's teleconferencing requirements, but only during a state of emergency proclaimed by the Governor, in which, 1) state or local health officials have imposed or recommended measures to promote social distancing, or 2) the legislative body has determined by majority vote that meeting in person would present an imminent risk to the health or safety of the attendees.

A local agency that holds a meeting under these circumstances would be required by AB 361 to follow the steps listed below, in addition to giving notice of the meeting and posting agendas as required under the Brown Act. These additional requirements are intended to protect the public's right to participate in the meetings of local agency legislative bodies.

Pursuant to AB 361 local agencies are required to do all of the following in addition to meeting notice requirements under the Brown Act:

- Allow the public to access the meeting and require that the agenda provide an opportunity for the public to directly address the legislative body pursuant to the Brown Act's other teleconferencing provisions.
- In each instance when the local agency provides notice of the teleconferenced meeting or posts its agenda, give notice for how the public can access the meeting and provide public comment.
- Identify and include in the agenda an opportunity for all persons to attend via a call-in or an internet-based service option; the legislative body needs not provide a physical location for the public to attend or provide comments.
- Conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the public.
- Stop the meeting until public access is restored in the event of a service disruption that either prevents the local agency from broadcasting the meeting to the public using the call-in or internet-based service option or is within the local agency's control and prevents the public from submitting public comments (any actions taken during such a service disruption can be challenged under the Brown Act's existing challenge provisions).
- Not require comments be submitted in advance (though the legislative body may provide that as an option) and provide the opportunity to comment in real-time.
- Provide adequate time for public comment, either by establishing a timed public

- comment period or by allowing a reasonable amount of time to comment.
- If the legislative body uses a third-party website or platform to host the teleconference, and the third-party service requires users to register to participate, the legislative body must provide adequate time during the comment period for users to register and may not close the registration comment period until the comment period has elapsed.

ANALYSIS

While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool. The San Joaquin County Public Health Services provided an update to the City Council of this situation at the June 7, 2022 meeting. In addition, the Human Resources Department of the City of Tracy has documented an increase in COVID-19 positive test rates amongst City staff in recent weeks. To minimize the exposure to COVID-19 from this recent surge, the City is reinstating social distancing protocols at in-person attendance at City Hall and encouraging the use of teleconferencing for City Council meetings.

Given these changed circumstances created by the increasing rates of COVID-19, the recommendation is that City Council make the following finds by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules.

If Council approves the proposed resolution, staff will present a staff report to Council every thirty days to verify that the circumstances continue to exist.

FISCAL IMPACT

There is no fiscal impact.

STRATEGIC PLAN

This agenda item relates to the City Council's Strategic Priorities in the area of Public Safety (Goal #1 Support COVID-19 Public Health Recovery).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from December 14, 2022, through January 12, 2023 pursuant to the Brown Act.

Prepared by: Adrienne Richardson

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments:

A - Assembly Bill

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

TRACY CITY COUNCIL

RESOLUTION NO. _____

MAKING FINDINGS AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND ALL LEGISLATIVE BODIES OF THE CITY OF TRACY FOR THE PERIOD OF DECEMBER 14, 2022, TO JANUARY 12, 2023, PURSUANT TO THE BROWN ACT

WHEREAS, The City of Tracy is committed to preserving and nurturing public access and participation in meetings of the City Council; and

WHEREAS, All meetings of the City of Tracy's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code section 54950 – 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, AB 361 allows legislative bodies to use abbreviated teleconferencing procedures during a declared state of emergency upon the making of required findings, so as to allow a body to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953 of Brown Act; and

WHEREAS, On March 17, 2020, the City Council of the City of Tracy ratified the declaration of an emergency by the City Manager due to COVID-19 in accordance with Chapter 3.26 of the Tracy Municipal Code; and

WHEREAS, While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool; and

WHEREAS, The San Joaquin County Public Health Services provided an update of the increasing rates at the June 7, 2022, City Council meeting; and

WHEREAS, The Human Resources Department of the City of Tracy has documented an increase in COVID-19 positive test rates amongst City staff in recent weeks; and

WHEREAS, To minimize the exposure to COVID-19 from this recent surge, the City reinstated social distancing protocols at in-person attendance at City Hall and encouraged the use of teleconferencing for City Council meetings; and now therefore be it

RESOLVED:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution as findings of this City Council by this reference.

Section 2. Findings. The City Council hereby finds the following:

- A. That due to COVID-19, including the recent surge being experienced in the City of Tracy, holding City Council and other legislative body meetings exclusively in person will present imminent risk to the health and safety of attendees.
- B. That COVID-19 has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to affirm a local emergency exists and re-ratify the proclamation of a state of emergency by the Governor of the State of California.

Section 3. Remote Teleconference Meetings. The City Council, including Council subcommittees, and all Boards and Commissions of the City of Tracy are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for the period of December 14, 2022 through January 12, 2023.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on December 13, 2022 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.A

RECOMMENDATION

Adopt a Resolution reciting the facts of the General Municipal Election held in the City of Tracy on November 8, 2022 and declaring the results of the Election and such other matters as provided by law.

EXECUTIVE SUMMARY

A General Municipal Election (Election) was held on November 8, 2022. The San Joaquin County Registrar of Voters Office has certified the results. California Election Code Section 10263 requires that the City Council adopt a resolution reciting the results of the election and other matters, as provided by law, upon completion of the canvass.

BACKGROUND AND LEGISLATIVE HISTORY

A General Municipal Election was held in the City of Tracy (City) on Tuesday, November 8, 2022, pursuant to Resolution No. 2022-083 (Attachment A), adopted by Council on June 24, 2022, and Resolution No. 2022-106 (Attachment B), adopted by Council on July 12, 2022. The Registrar of Voters for San Joaquin County has canvassed the returns of the Election and certified the results per Elections Code sections 10262 et al. as follows:

- The names of the persons voted for at the Election for the seat of Mayor were Nancy D. Young, Eleassia Davis, and Mateo Bedolla.
- The names of the persons voted for at the election for the seat of Member of the City Council were Ameni Alexander, Dan Arriola, Alice English, Dan Evans, Wes Huffman, William Muetzenberg, and Amrik Wander.

The Measure voted upon at the Election was as follows:

- Measure B - To ensure large businesses pay a proportionate share and provide funding for City services such as: repairing potholes/streets; keeping public areas healthy/safe/clean; maintaining neighborhood police patrols/9-1-1 emergency response/fire protection; supporting our economy/general government use, shall the measure to update the City of Tracy business taxes be adopted with typical rates between 0.1% and 0.3% of gross receipts, as described in the measure, providing an additional \$3,200,000 annually, until ended by voters? – Yes/No

The number of precincts and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates, and Measure B are included in the certified results (Attachment C).

ANALYSIS

In compliance with the California Elections Code 1301, the City Council adopted Ordinance No. 470 establishing that the City of Tracy holds a regular General Municipal Election on every even numbered year on the first Tuesday after the first Monday in November in each such even-numbered year. The City Council has three seats (two Council Members and Mayor) whose terms will expire by the end of the 2022. City Council also ordered the City Clerk to submit to the City of Tracy voters, at the November 8, 2022, General Municipal Election, a Ballot Measure repealing and replacing, in its entirety, Chapter 6.04 (Business Taxes) of the Tracy Municipal Code.

To reduce costs of the election, pursuant to California Elections code Section 10002, the City Council adopted Resolution 2022-083 requesting that the Board of Supervisors of the County of San Joaquin consent to the consolidation of the City's General Municipal Election of November 8, 2022, with the Statewide General Election that was held by the County of San Joaquin and provide the assistance of the County Registrar of Voters for the Election.

Pursuant to Elections Code 10263, the City Council must adopt a resolution reciting the facts of the General Municipal Election held on November 8, 2022, declaring the results and other matters as provided by law, upon completion of the canvas. The Registrar of Voters for San Joaquin County has canvassed the returns of the Election and certified the results per Elections Code sections 10262 et al.

FISCAL IMPACT

The actual cost of the Election is unknown at this time. Based on past practice, the County will provide a full accounting and invoice to the City by January 2023 and the City of Tracy will reimburse the County for its services. The City budgeted \$135,000 in the FY 2022/23 budget.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's Strategic Plans.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, pursuant to the Elections Code, adopt a resolution reciting the facts of the General Municipal Election held on November 8, 2022, declaring the results and other matters as provided by law.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

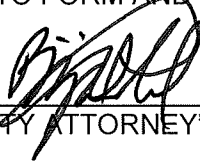
ATTACHMENTS:

Attachment A – Tracy City Council Resolution 2022-083

Attachment B – Tracy City Council Resolution 2022-106

Attachment C – San Joaquin County Registrar of Voters Certification of Results of the City
of Tracy General Election held on November 8, 2022

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. 2022-083

1) CALLING AND GIVING NOTICE TO HOLD A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2022, FOR THE ELECTION OF CERTAIN OFFICERS PURSUANT TO THE CALIFORNIA ELECTIONS CODE; 2) REQUESTING THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY TO CONSOLIDATE THE CITY OF TRACY'S GENERAL MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022; 3) REQUESTING THE SERVICES OF THE SAN JOAQUIN COUNTY REGISTRAR OF VOTERS (REGISTRAR); AND 4) AUTHORIZING THE PAYMENT OF COSTS FOR THE REGISTRAR'S SERVICES FOR SUCH AMOUNT OF ACTUAL COSTS INCURRED

WHEREAS, Under California Elections Code 1301, a General Municipal Election must be held on an established election date unless the relevant City Council has enacted an ordinance requiring its election to be held on one of the dates specified in such statute; and

WHEREAS, In compliance with the California Elections Code 1301, the City Council adopted Ordinance No. 470 establishing that the City of Tracy holds a regular General Election on every even numbered year on the first Tuesday after the first Monday in November in each such even-numbered year; and

WHEREAS, The City of Tracy holds a General Municipal Election to fill a vacant and/or term expired City Council seat; or place any public or City Council generated measure/ initiative/referendum on the ballot; and

WHEREAS, the City Council will have three seats whose terms will expire by the end of 2022. The three Council seats whose terms are expiring are currently held by Council Member Arriola, Mayor Pro Tem Vargas, and Mayor Young; and

WHEREAS, the City seeks to hold the City's General Municipal Election on Tuesday, November 8, 2022; and

WHEREAS, To reduce the costs of the election, pursuant to California Elections Code Section 10002, the City seeks to request the Board of Supervisors of San Joaquin County to consolidate the City's General Municipal Election, of November 8, 2022, with the Statewide General Election that will be held by the County of San Joaquin (County); and

WHEREAS, Pursuant to California Elections Code Section 10400, the City seeks to request the services of the San Joaquin County Registrar of Voters (Registrar) for its election; and

WHEREAS, The Registrar has provided an estimated cost of conducting the election for the City, which amount is anticipated not to exceed \$200,000; and now therefore be it

RESOLVED: The City Council of the City of Tracy, California, does resolve, declare, determine, and order as follows:

Section 1: The City Council hereby calls and provides notice for the holding of a General Municipal Election in the City of Tracy, California, on Tuesday, November 8, 2022, for the purpose of electing a Mayor for the full term of two years commencing December 2022 and expiring November 2024; two members of the City Council for the full term of four years commencing December 2022 and expiring November 2026.

Section 2: The City Council hereby requests the Board of Supervisors of the County of San Joaquin consent and agree to the consolidation of the City's General Municipal Election with the Statewide General Election on Tuesday November 8, 2022 and to provide the assistance of the County Registrar of Voters for such election.

Section 3: The City Council hereby authorizes the County Elections Department of San Joaquin County Election to hold the General Municipal Election in all respects with the Statewide General Election, as if there were only one election, with only one form of ballot, and canvass the returns of the General Municipal Election.

Section 4: The Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all steps necessary for holding of the consolidated election.

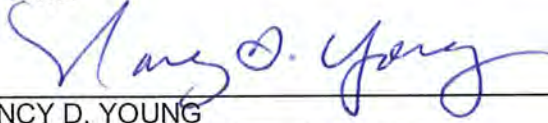
Section 5: That the City Council hereby appropriates all monies necessary to prepare for and conduct said election and hereby authorizes the City Clerk to take any and all actions necessary to prepare for and conduct said election consistent with this Resolution and the California Elections Code where applicable.

Section 6: The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of San Joaquin.

Section 7: That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing Resolution 2022-083 was adopted by the Tracy City Council on June 24, 2022, by the following vote:

AYES:	COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTENTION:	COUNCIL MEMBERS: NONE



NANCY D. YOUNG
Mayor of the City of Tracy, California



ATTEST:
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

THE FOREGOING DOCUMENT IS CERTIFIED
TO BE A CORRECT COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE.

BY: CITY CLERK, CITY OF TRACY
[Signature]

DATE: July 13, 2022

APPROVED AS TO FORM AND LEGALITY

[Signature]
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. 2022-106

ORDERING THE CITY CLERK TO SUBMIT TO THE CITY OF TRACY VOTERS AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION, A BALLOT MEASURE REPEALING AND REPLACING, IN ITS ENTIRETY, CHAPTER 6.04 (BUSINESS TAXES) OF THE TRACY MUNICIPAL CODE, AND 2) AUTHORIZING THE SUBMISSION OF AN ARGUMENT ON BEHALF OF THE CITY COUNCIL WITH DESIGNATED AUTHOR(S), AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, OF THE BALLOT MEASURE ON THE NOVEMBER 8, 2022 GENERAL ELECTION BALLOT

WHEREAS, Chapter 6.04 of the Tracy Municipal Code contains the City of Tracy's (City) Business Taxes structure (Business Taxes Structure), which applies to all persons engaged in business activities in the City of Tracy (City); and

WHEREAS, The City's Business Taxes Structure has not been critically re-examined in decades; and

WHEREAS, The City's current Business Taxes Structure imposes a disproportionate burden on small businesses, as it is based on the total employee count instead of gross receipts generated by the businesses; and

WHEREAS, Due to this flat tax structure and reliance on the total employee count, large employers in the City, such as warehouse businesses and big corporations, are currently not paying their proportionate share of tax relative to their gross receipts; and

WHEREAS, Small, locally owned businesses in the City are currently paying a higher effective rate compared to larger businesses who are currently paying far less than their respective "fair share" relative to the gross receipts generated by such businesses; and

WHEREAS, An alternative to the flat tax is a progressive gross receipts tax, in which larger businesses with higher gross receipts pay more than smaller businesses with less gross receipts; and

WHEREAS, A progressive tax structure would create a better business environment for small businesses and provide additional funding for City services; and

WHEREAS, In a progressive system, every business pays their fair and proportional share into the City's General Fund and is aligned with the nation's progressive income tax structure; and

WHEREAS, Neighboring cities, including Stockton, Modesto, Walnut Creek, San Jose and San Francisco, have adopted a progressive business tax structure that imposes higher rates on businesses that earn more gross receipts; and

WHEREAS, The City seeks to maintain quality of life while not taxing homeowners living in the City or burdening small businesses; and

WHEREAS, The proposed amended Business Taxes measure is not a license to operate within the City, and each business must obtain a "Business Tax" Certificate; and

WHEREAS, The changes suggested to the Business Taxes Structure do not entitle the holder of the Business Tax Certificate to conduct business before complying with all requirements of the Tracy Municipal code and other applicable laws, nor to conduct business in a zone where such a business violates the law; and

WHEREAS, In March 2020, the City Council formed an Ad-Hoc Committee of the City Council to develop policies and actions to ensure the City's long-term fiscal sustainability; and

WHEREAS, On March 9, 2021, the City Council held a fiscal sustainability workshop where they adopted the City's Guiding Budget Principles and several fiscal strategies; and

WHEREAS, The City Council directed the Ad-Hoc Committee to continue working through these strategies and to return to the City Council with further actions for consideration; and

WHEREAS, One of these strategies was to revise the City's existing Business Taxes scheme, which has not been updated for the last four decades; and

WHEREAS, During the March 22, 2022, City Council workshop, staff presented the General Fund's ten-year forecast that discussed the impacts of the potential loss of Sales Tax revenues and what an increase from a revision to the Business Taxes revenue would look like for the City; and

WHEREAS, On March 22, 2022, with the recommendation of the Ad-Hoc Committee, the City Council directed staff to proceed with the documents required to place a general tax measure on the ballot for the General Municipal Election on November 8, 2022, and

WHEREAS, Over the past four months, the City has met with the Chamber of Commerce, the Tracy City Center Association (TCCA), and hosted four separate meetings for the City's business community to discuss how to make the City's Business Taxes Structure more equitable by switching to a gross receipts tax; and

WHEREAS, The Ad-Hoc Committee initially explored options for the gross receipts tax to begin after the first \$100,000 in gross revenue with a flat fee of \$100; and

WHEREAS, The small business community's feedback influenced the final recommendation, which reflects a base fee of \$50 for the first \$500,000 in gross receipts; and

WHEREAS, Based on the recommendations of the business community and the Ad-Hoc Committee, staff has prepared a proposed ballot measure asking the voters to repeal and replace, in its entirety, Chapter 6.04 (Business Taxes) of the Tracy Municipal Code in the form

attached hereto as **Exhibit A** and incorporated herein by reference (Ballot Measure) for the City Council's consideration; and

WHEREAS, if approved by the voters, the Ballot Measure would impose a general tax on businesses engaged in commercial activity in the City (General Tax); and

WHEREAS, If the proposed Ballot Measure is approved by the voters, the amended Business Taxes Structure of the City would add resources to the general-purpose fund while also supporting small businesses by having a tax break on the first \$500,000 in gross receipts; and

WHEREAS, Revenues collected from the Ballot Measure would be for general revenue purposes and would go into the City's General Fund and be used for any government purpose; and

WHEREAS, It is estimated that the proposed revisions to the Business Taxes Structure will generate approximately \$4.2 million in annual tax revenue for the City's General Fund; and

WHEREAS, Updating the City's Business Taxes Structure would ensure that larger businesses relative to gross receipts pay their proportionate share of taxes while reducing the impact on small businesses; and

WHEREAS, If approved, the Ballot Measure would generate additional revenue that also would allow the City to: maintain and even improve City streets, roads, parks, community facilities, and economic development; maintain and expand after-school programs, anti-gang activities, and recreation programs that keep young people off the streets, out of trouble and away from drugs and gangs; and help maintain rapid emergency and medical response times for police and fire by ensuring adequately staffed and trained police officers and firefighters; and

WHEREAS, Pursuant to Section 9222 of the California Elections Code, the City Council is authorized to place measures on the ballot to be considered at a general municipal election; and

WHEREAS, Article XIII C, section 2(b) of the California Constitution requires that any General Tax for unrestricted general revenue purposes must be submitted to and approved by a majority vote of the voters voting on the issue of imposing any general tax; and

WHEREAS, At its June 24, 2022 meeting, the City Council adopted a Resolution (Resolution No 2022-083) calling for and giving notice of a General Municipal Election to be held on November 8, 2022, and requesting that the Board of Supervisors of the County of San Joaquin consolidate said election with the Statewide General Election to be held that day along with other requisite actions; and

WHEREAS, the California Elections Code requires ballot measures to pose a specific question for the voters' consideration; and

WHEREAS, Based upon analysis and voter polling, staff proposes that the ballot question be, "To ensure large businesses pay a proportionate share and provide funding for City services such as: repairing potholes/streets; keeping public areas healthy/safe/clean; maintaining neighborhood police patrols/9-1-1 emergency response/fire protection; supporting our economy/general government use, shall the ordinance to update the City of Tracy business taxes be

adopted with typical rates between 0.1% and 0.3% of gross receipts, as described in the ordinance, providing an additional \$3,200,000 annually, until ended by voters?"; and

WHEREAS, The California Elections Code allows legislative bodies to provide for the submission of arguments for and against ballot measures and to direct their respective counsel to prepare an impartial analysis of such measures; and

WHEREAS, The City Council desires to submit the General Tax, pursuant to the Ballot Measure, to the qualified voters of the City at the next General Municipal Election to be held on Tuesday, November 8, 2022; and

WHEREAS, In accordance with the California Environmental Quality Act (CEQA) Guidelines Sections 15378 (b)(3) and (b)(4), the City finds that this action does not constitute a project under CEQA; and now, therefore, be it

RESOLVED:

Section 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct and incorporates them fully herein.

Section 2. Ballot Measure. The City Council hereby orders the City Clerk to submit to the City of Tracy Voters, at the November 8, 2022, General Municipal Election, the Ballot Measure repealing and replacing, in its entirety, Chapter 6.04 (Business Taxes) of the Tracy Municipal Code.

Section 3. Argument. The City Council hereby authorizes the submission of an argument for the Ballot Measure, on behalf of the City Council with designated author(s), which argument, in accordance with California Elections Code sections 9282 and 9283:

(a) shall not exceed 300 words in length, and shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election and may be signed by the authors designated by the City Council as part of the adoption of this Resolution;

(b) include, preceding the argument itself, the heading "Argument For Measure _____" and precede, which shall not be counted in the 300 word maximum (the blank spaces being filled only with the letter or number, if any, designating the measure); and

(c) be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, due in the office of the City Clerk by the date established by the County Registrar of Voters

Section 4. Impartial Analysis. The City Council hereby directs the City Attorney to prepare an impartial analysis of the Ballot Measure and to timely submit such analysis to the City Clerk

Section 5. Rate and Method. The type, rate, and method of collection of the General Tax are set forth in the Ballot Measure.

Section 6. Ballot Label. The City Council hereby approves the following ballot label for the proposed General Tax, to be submitted for a "Yes" or "No" vote:

To ensure large businesses pay a proportionate share and provide funding for City services such as: repairing potholes/streets; keeping public areas healthy/safe/clean; maintaining neighborhood police patrols/9-1-1 emergency response/fire protection; supporting our economy/ general government use, shall the measure to update the City of Tracy business taxes be adopted with typical rates between 0.1% and 0.3% of gross receipts, as described in the measure, providing an additional \$3,200,000 annually, until ended by voters?	YES	
	NO	

Section 7. Full Text. The full text of the Ballot Measure, which is attached as **Exhibit A**, shall be printed in the sample ballot/voter information pamphlet for the November 8, 2022 General Municipal Election.

Section 8. Approval. Pursuant to Section 2(b) of Article XIII C of the California Constitution, this measure requires approval by a majority vote (50% plus 1) of those casting ballots on the measure.

Section 9. Filing with County. The City Clerk shall file a certified copy of this Resolution, along with the argument and analysis authorized herein, with the Board of Supervisors and County Elections Department of the County of San Joaquin and to take such actions needed to comply with the California Elections Code.

Section 10. CEQA. In accordance with CEQA Guidelines Sections 15378 (b)(3) and (b)(4), the City finds that this action does not constitute a project under CEQA.

Section 11. Effective Date. This Resolution shall be effective immediately upon adoption by a majority vote of the City Council.

The foregoing Resolution was adopted by the Tracy City Council on the 12th day of July, 2022, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG
 NOES: COUNCIL MEMBERS: NONE
 ABSENT: COUNCIL MEMBERS: NONE
 ABSTAIN: COUNCIL MEMBERS: NONE


 MAYOR PRO TEM

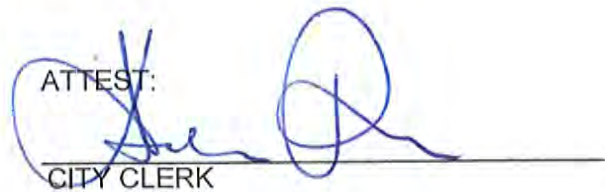
ATTEST: 
 CITY CLERK

EXHIBIT A
BALLOT MEASURE

EXHIBIT A

Title 6 - BUSINESSES, PROFESSIONS AND TRADES Chapter 6.04 BUSINESS TAXES

Chapter 6.04 BUSINESS TAXES

Sections:

- 6.04.010 Definitions.
- 6.04.020 Revenue measure.
- 6.04.030 Effect on other laws.
- 6.04.040 Business tax payments required.
- 6.04.050 Evidence of doing business.
- 6.04.060 Constitutional apportionment.
- 6.04.070 Exemptions.
- 6.04.080 Posting and keeping tax certificates.
- 6.04.090 Confidentiality and examination.
- 6.04.100 Failure to file statements or corrected statements.
- 6.04.110 Amount of business tax debt to city.
- 6.04.120 Effect of convictions.
- 6.04.130 Duty of City to issue tax certificates.
- 6.04.140 Business taxes payable at City offices.
- 6.04.150 Separate taxes required—Warehouses excepted.
- 6.04.160 Tax certificate period.
- 6.04.170 Business taxes—Payment, delinquencies, and penalties.
- 6.04.180 Taxpayer information required.
- 6.04.190 Subsequent tax payments.
- 6.04.200 Extensions of filing dates—Interest charges.
- 6.04.210 Refunds.
- 6.04.220 Determinations of business classifications an administrative function.
- 6.04.230 Applications for changes of business classifications.
- 6.04.240 Appeals on decisions of business classifications.
- 6.04.250 Rules and regulations.
- 6.04.260 Referrals to other agencies—Prepayment of taxes.
- 6.04.270 Enforcement.

6.04.280 Remedies cumulative.

6.04.290 Severability.

6.04.300 Violations—Penalties.

6.04.310 Determination of tax due based on gross receipt plus annual registration.

Article 1. General Provisions

6.04.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Base Gross Receipt" means the first \$500,000 of Gross Receipt

"Business" means and includes full-time or part-time professional services and retail, wholesale, manufacturing, or other occupations, trades, or callings of any kind, whether or not carried on for profit or livelihood.

"Business tax" means the Business activity tax.

"City" means the City of Tracy, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

"Code" means the Tracy Municipal Code, as amended from time to time.

"Collector" means the Finance Director of the City or other designees charged by the Finance Director or City Manager of the City, as the case may be, with the administration of the provisions of this chapter.

"County" means the County of San Joaquin.

"Constitution" means the United States Constitution or the California Constitution, as the case may be.

"Employee" means all persons engaged in the operation or conduct of any Business, whether as a member of the owner's family, agent, manager, solicitor, and all other persons employed or working in said Business including, without limitations of the foregoing, all individuals who derive all or part of their income from commissioned sales. For purposes of computing tax based on employees, the average number of employees per year, as defined in this section, will be used.

"Fixed place of business" means premises in the City where a Business is conducted from day to day and regularly kept open for the purposes of such Business, also referred to as "regular place of business."

"Gross Receipts" means the total amount of the sale price of all sales, and/or the total amount charged or received for the performance of any act or service or employment, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise, and when such act, service or employment occurs as a result of any activity within the City. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, except as excluded in this subsection, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever as shown by either the Federal or State income tax return required to be filed by such person.

Where the Gross Receipts, as defined above, are less than the cost of operations of the Business, then the Business shall be deemed to produce Gross Receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses.

Excluded from "gross receipts" shall be:

- (a) Cash discounts allowed and taken on sales;
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (d) Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
- (e) Amounts collected for others where the Business is acting as an agent or trustee to the extent that such amounts are paid to those whom collected;
- (f) The amount of each single sale to a single customer in excess of fifty thousand dollars (\$50,000.00) where the gross profits derived therefrom does not exceed one percent (1%) of the sale price; and

The amount of gross receipts which has been the measure of a license tax paid to any other City. "Hearing officer" means an impartial person designated by the City Manager, as defined in Chapter 1.12 of the Tracy Municipal Code.

"Manufacturing" means making materials, raw or partly finished, into wares suitable for use by persons other than the manufacturer, including, but not limited to, fabrication, processing, packing, bottling, assembling, canning, compounding, and forging.

"Not-for-profit entities" means any organization that qualifies under Section 501, subsection (c) (3) of the United States Internal Revenue Code or equivalent federal statute.

"Peddler" means any person who goes from house to house or from place to place or in or along the streets of the City selling and making an immediate delivery, or offering for sale and immediate delivery, anything of value in his possession to persons other than dealers in such commodities.

"Person" means any individual, firm, company, partnership, limited liability partnership, joint venture, association, proprietorship, social club, fraternal organization, joint stock company, domestic or foreign corporation, limited liability corporation, estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, excepting: the United States of America, the State of California, and any political subdivision of either thereof upon which the City is without power to impose the tax herein provided.

"Solicitor" means a person engaged in soliciting, canvassing, or taking orders from house to house, or from place to place, or by telephone, or by any other means of communication for any goods, wares, or merchandise or any article to be delivered in the future, or for services to be performed in the future, or for making, manufacturing, or repairing any article whatsoever for future delivery, or for subscriptions to periodicals or tickets of admission to entertainments or memberships in any clubs.

"State" means the State of California.

"Sworn statement" means an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under penalty of perjury.

"Tax Certificate" means the Business tax certificate and any other identifying decal or marker as may be required by the Collector for purposes of this Chapter 6.04.

"Tax Certificate Holder" means the Person to whom a Tax Certificate has been issued.

"Transient business" means every Business not conducted at a "fixed place of business" or at a regular place of Business, whether the person conducting such transient business is or is not a resident of the City.

"Warehousing business" means every Business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.

"Wholesale business" means every Business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale.

6.04.020 Revenue measure.

This chapter is enacted for the sole purpose of raising revenue for municipal purposes and is not intended for regulation. The issuance of any Tax certificate shall not be construed as authorizing any Business to operate without first complying with all other applicable laws and regulations.

6.04.030 Effect on other laws.

- (a) Persons required to pay a Business Tax for transacting and carrying on any Business under this chapter shall not be relieved from the payment of any similar tax for the privilege of doing such Business required by any other law of the City, the County or the State and shall remain subject to the regulatory provisions of those other laws.

-
- (b) Any Person required to pay a Business Tax for transacting and carrying on any Business under this chapter shall not be relieved from the payment of such Business Tax, notwithstanding that such Business is not in compliance with zoning, health, safety, or other regulatory provisions of the Code or other State or federal law. Compliance with the provisions of this chapter shall not constitute evidence that such Business is in compliance with any other such regulations or provisions of law.

6.04.040 Required business tax payment.

- (a) It shall be unlawful for any person to transact and carry on any Business, trade, profession, calling, or occupation in the City without first having paid the Business Tax, as prescribed in this chapter or without complying with any and all applicable requirements of this chapter.
- (b) This section shall not be construed to require any Person to pay a Business Tax or to comply with any other requirement of this chapter prior to doing Business within the City if such requirements conflict with applicable statutes of the United States or of the State.

6.04.050 Evidence of doing business.

When any Person, by the use of signs, circulars, cards, telephone books, or newspapers, shall advertise, hold out, or represent that the Person is in Business in the City, or when any Person holds an active license or permit issued by a governmental agency indicating that the Person is in Business in the City, or when any Person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, and such Person fails to deny by a sworn statement given to the Collector that the Person is not conducting a Business in the City after being requested to do so by the Collector, then such facts shall be considered prima facie evidence that the Person is conducting a Business in the City.

6.04.060 Constitutional apportionment.

- (a) None of the Business Taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the Equal Protection and Due Process Clauses of the Constitution
- (b) In any case where a Business Tax is believed by a Person transacting or carrying on any Business in the City to place an undue burden upon interstate commerce or be violative of such constitutional clauses, such Person may apply to the Collector for an adjustment of the tax. Such application may be made before or at the time the tax is required to be paid or within six (6) months after the payment of the prescribed Business Tax. The applicant, by sworn statement and supporting testimony, shall show the applicant's method of Business, the gross volume or estimated gross volume of such Business, and such other information as the Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Collector shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the Business Tax for the applicant an amount that is reasonable and nondiscriminatory or, if the Business Tax has already been paid, shall order a refund of the amount over and above the Business Tax so fixed. Such investigation, fixing of the Business Tax, and order

of refund shall be accomplished within a reasonable time upon receiving the requisite information by the City. In fixing the Business Tax, the Collector shall have the power to fix the Business Tax on any basis which will assure that the Business Tax assessed shall be uniform with that assessed on Businesses of like nature, so long as the amount assessed does not exceed the Business Tax prescribed by this chapter. If it is determined that no Business Tax is due, the applicant exempt from the Business Tax shall obtain, and the Collector shall issue, a Tax Certificate indicating such exemption from the tax.

6.04.070 Exemptions

- (a) Nothing contained in this chapter shall be deemed or construed as applying to any person transacting, engaging in, and carrying on any Business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from payment of taxes prescribed herein.
- (b) Exemptions Requiring tax-exempt Tax Certificates. The following Persons shall be exempted from the provisions of this chapter, except that any such Person shall be required to obtain a tax-exempt Tax Certificate:
 - (1) Not-for-profit entities, as defined in this Code;
 - (2) Banks, including national banking associations as provided by subsection 1(a) of Section 16 of Article XIII of the State Constitution; and
 - (2) Insurance companies and associations as provided by Section 14 of Article XIII of the State Constitution provided however that insurance brokers shall not be excluded under this section.
- (c) Exemptions Not Requiring tax-exempt Tax Certificates. The following Persons shall be exempted from the provisions of this chapter, and shall not be required to obtain a tax-exempt Tax Certificate:
 - (1) Any delivery by a firm lacking a fixed place of Business in the City, which delivery is occasional and incidental to a Business carried on outside the City provided, however, that four (4) or more deliveries within any twelve (12) month period shall be considered proof that any further delivery is not occasional and incidental to such Business;
 - (2) Any public utility or other organization which is wholly owned and operated by a political subdivision of the State and any public district organized under the laws of the State; and
 - (3) Any vehicle which is subject to the Motor Carriers of Property Permit Fee Act (California Revenue and Taxation Code section 7231 et. al); provided, however, this exemption shall only apply to the transportation Business.
- (d) Claims for exemption. Any Person desiring to claim an exemption from the payment of a Business Tax and to have a free tax-exempt Tax Certificate issued shall make an application therefor upon a form prescribed by the City and shall furnish such information and make such affidavits as may be required, on an annual basis. Upon the determination

being made that the applicant is entitled to an exemption from the payment of the Business Tax for any reason set forth in this chapter, the City, upon the applicant complying with the provisions of this chapter or any other law of the City which may require a permit for the doing of the particular act proposed to be done, shall issue a free tax-exempt Tax Certificate to such Person, which certificate shall show upon its face that the Business is exempt from the Business Tax.

- (e) Revocation of exemptions. The City may revoke any tax-exempt Tax Certificate granted pursuant to the provisions of this chapter upon information that the Business is not entitled to the exemption as provided therein. In such revocation, the procedure to be followed and the right of appeal shall be as provided in this chapter for the determination of a disputed tax.
- (f) Sworn statements. The City may require the filing of a sworn statement from any person claiming to be excluded by the provisions of the section, which statement shall set forth all the facts upon which the exclusion is claimed.

6.04.080 Posting and keeping Tax Certificates – Record keeping.

- (a) Any Person carrying on Business at a fixed place of Business in the City shall keep the Tax Certificate posted in a conspicuous place on the premises where such Business is carried on.
- (b) Every Tax Certificate holder not having a fixed place of Business in the City shall keep the Tax Certificate upon his or her person, or if required by the Collector affixed in plain view upon any cart, vehicle, van, or other movable structure or device, at all times while transacting or carrying on the Business for which it is issued.
- (c) All Persons subject to the provisions of this chapter shall keep complete records of Business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three years. No Person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine said records at reasonable times and places.

6.04.090 Information confidentiality.

No statement shall be conclusive as to the matters set forth in any application filed under the provisions of this chapter and neither the filing thereof, the assessment or payment of any tax, nor the issuance of any Tax Certificate shall preclude the City from collecting by appropriate action such sum as is actually due and payable. Such statement, and each of the several items therein contained, shall be subject to audit and verification by the Finance Director, who is hereby authorized to examine, audit, and inspect such books and records of any Tax Certificate Holder or applicant for a Tax Certificate as may be necessary for the judgment of the Collector to verify or ascertain the amount of Business Tax due.

- (a) It is unlawful for the Collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the Business affairs,

operations, or information obtained by an investigation of records and equipment of any Person required to have a Tax Certificate, or pay a Business Tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or copy of either, or any book containing any abstract particulars thereof to be seen or examined by any person. Provided that nothing in this section shall be construed to prevent:

- (1) The disclosure to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder;
- (2) The disclosure of information to, or the examination of records by Federal or State officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
- (3) The disclosure of information and results of the examination of records of particular taxpayers, or relating to particular payers, to a court of law in a proceeding brought to determine the existence or amount of any Business Tax liability of the particular taxpayers to the City;
- (4) The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items included to the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;
- (5) The disclosure of the names and addresses of persons to whom Business Tax receipts have been issued, and the general type or nature of their Business;
- (6) The disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council in order to permit it to be fully advised as the facts when a taxpayer files a claim for refund of Business Taxes or submits an offer of compromise with regard to a claim asserted against him by the City for Business Taxes, or when acting upon any other matter;
- (7) The disclosure of general statistics regarding taxes collected or Business done in the City.

6.04.100 Failure to file statements or corrected statements.

- (a) If any Person fails to file any required statement within the time prescribed, or if, after demand therefor made by the Collector, such Person fails to file a corrected statement, or if any Person subject to the tax imposed by this chapter fails to submit the information required by the Collector necessary to determine the Business Tax due and payable, or if

the Collector is not satisfied with the information supplied and the statement filed, the Collector may determine the amount of the Business Tax due from such Person by means of such information as he may be able to obtain.

- (b) If such a determination is made, the Collector shall give notice of the amount so assessed by serving such notice electronically, personally, or by depositing it in the United States Post Office, postage prepaid, addressed to the Person so assessed at his last known address.
- (c) Assessments so established shall be paid within fifteen (15) days after the mailing of such notice, subject to the provisions of section 6.04.180 of this chapter.

6.04.110 Amount of business tax debt to the city.

The amount of any Business Tax imposed by this chapter shall be deemed a debt to the City, and any Person carrying on any trade, calling, profession or occupation mentioned in this chapter without having a Tax Certificate from the City shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the Business Tax by this chapter imposed on such trade, calling, profession, or occupation.

6.04.120 Effect of convictions.

The conviction and punishment of any Person for transacting any trade, calling, profession, or occupation without a tax shall not excuse or exempt such person from the payment of any Business Tax due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any violation of the provisions of this chapter.

6.04.130 Duty of City to issue business tax certificates.

- (a) It shall be the duty of the City to prepare and issue a Tax Certificate pursuant to the provisions of this chapter for every person liable to pay a Business Tax and to state in each Tax Certificate the period of time covered thereby; the name of the person or Business to whom issued; the Business classification to which the Tax Certificate is issued; the trade, calling, profession, or occupation to which the license certificate is issued and the location or place of Business where such trade, calling, profession, or occupation is to be carried(b)
No Tax Certificate granted or issued under any provision of this chapter shall be in any manner transferred or assigned, nor shall such Tax Certificate authorize any Person, other than is therein mentioned or named, to not pay a Business Tax.
- (c) The City may make a charge of Ten (\$10.00) Dollars for each duplicate Tax Certificate issued to replace any Tax Certificate issued under the provisions of this chapter that has been lost or destroyed. In no case shall any mistake made by the City in stating the amount of a Business Tax prevent or prejudice the collection by the City of what shall be due from any Person carrying on a trade, calling, profession, or occupation subject to Business Tax under this chapter.

6.04.140 Business taxes payable at City offices.

All Business Taxes shall be paid in advance in lawful money of the United States to the City of Tracy, in a manner prescribed by the Collector.

6.04.150 Separate business tax certificate required—Warehouses excepted.

A separate Tax Certificate shall be obtained for each branch establishment or location. Warehouses and distributing establishments used in connection with and incidental to a Business Taxed under the provisions of this chapter shall not be deemed to be separate places of Business or branch establishments.

6.04.160 Business tax certificate period.

No Tax Certificate shall be issued for a period of more than twelve (12) months of the City's fiscal year beginning July 1 and ending June 30. Any application for a Tax Certificate received by the City mid-fiscal year will use a prospective estimate of how much the applicant would pay had they applied at the beginning of the Tax Certificate period.

6.04.170 Business taxes—Payment, delinquencies, and penalties.

- (a) All Business Taxes shall be due on the first day of July and delinquent at 5:00 p.m. on the last day of July.
- (b) For failure to pay a Business Tax when due, the Collector shall add a penalty of ten (10%) percent of such Business Tax on the first day of delinquency and shall add a further penalty of ten (10%) percent of such Business Tax on the first day of every subsequent calendar month following such first day of delinquency provided the amount of such penalties to be added shall in no event exceed fifty (50%) percent of the Business Tax due. The penalties provided in this subsection shall be assessed from the date when such deficiency was required to be paid pursuant to the provisions of this chapter.

6.04.180 Application - Initial.

- (a) Upon a Person making an application for the first Business Tax Certificate for a newly established or acquired Business, such Person shall furnish to the Collector a statement, upon a form provided by the Collector; setting forth the following information:
 - (1) The exact nature or kind of Business;
 - (2) The place where such Business is to be carried on, and if the same is not to be carried on at any permanent place of Business, the places of residence of the owners of same;
 - (3) In all cases where the amount of tax to be paid is measured by gross receipts, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the tax to be paid by the applicant;
 - (4) Any further information which the Collector may require.
- (b) If the amount of the tax to be paid by the applicant is measured by gross receipts, he or she shall estimate the gross receipts for the period covered. Such estimate, if accepted by

the Collector as reasonable, shall be used in determining the amount of tax to be paid by the applicant; provided, however, the amount of the tax so determined shall be tentative only, and such person shall, within 60 days after the expiration of the period covered, furnish the Collector with a statement, upon a form prescribed by the Collector, showing the applicant's actual gross receipts during the period covered, and the tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of such taxes, after deducting from the payment found to be due the amounts initially paid.

- (c) In all cases, the applicant shall, upon filing his or her application, pay no less than the prescribed minimum tax in advance, without being prorated, to cover the remaining portion of the current reporting period.
- (d) The Collector shall not issue to any such person another Business Tax Certificate for the same or any other Business until such Person shall have furnished to him or her a statement and paid the tax as herein required.

6.04.190 Application - Renewal.

In all cases, the applicant for the renewal of a Business Tax Certificate shall submit to the Collector for his or her guidance in ascertaining the amount of the tax to be paid by the applicant, a statement, upon a form prescribed by the Collector, setting forth such information concerning the applicant's Business during the preceding year as may be required by the Collector to enable him or her to ascertain the amount of the tax to be paid by said applicant pursuant to the provisions of this chapter.

6.04.200 Extensions of filing dates—Interest charges.

The Collector shall have the power, for good cause, to extend the time for filing any required sworn statement for a period not exceeding sixty (60) days and in such case to waive any penalty that would have otherwise accrued, except that twelve (12%) percent simple interest shall be added to any tax determined to be payable.

6.04.210 Refunds.

No refund of an overpayment of a Business Tax imposed by this chapter shall be allowed in whole or in part unless a claim for a refund is filed with the Collector within a period of one (1) years after the last day of the calendar month following the period for which the overpayment was made, and all such claims for refunds shall be filed with the Collector on forms the Collector furnishes in the manner prescribed by the Collector. Upon the filing of such a claim and when the Collector determines, in a reasonable time, that an overpayment has been made, the Collector may refund the amount overpaid.

6.04.220 Determinations of business classifications an administrative function.

The final determination of which Business or class of Business a Tax Certificate Holder or applicant for a Tax Certificate is engaged in, or about to engage in, shall be an administrative function of the City.

6.04.230 Applications for changes of business classifications.

- (a) In any case, where a Tax Certificate Holder or an applicant for a Tax Certificate believes that his or her Business is not assigned to the proper classification under this chapter because of circumstances peculiar to it, as distinguished from other Businesses of the same kind, he or she may apply to the Collector for reclassification. Such application shall contain such information as the Collector may deem necessary and require in order to determine whether the applicant's individual Business is properly classified. The Collector shall then conduct an investigation following which he or she shall assign the applicant's individual Business to the classification shown to be proper on the basis of such investigation. The proper classification is that classification which, in the opinion of the Collector, most nearly fits the applicant's Business. The reclassification shall not be retroactive but shall apply at the time of the next regularly ensuing calculation of the applicant's tax. No Business shall be classified more than once a year.
- (b) The Collector shall notify the applicant of the action taken on the application for reclassification. Such notice shall be given by serving it personally or by depositing it in the United States Post Office postage prepaid, addressed to the applicant at his or her last known address. Such applicant may, within 10 working days after the mailing or serving of such notices, make a written request to the Collector for a appeal hearing on the application's reclassification. If such a request is made within the time prescribed, the Collector shall cause the matter to be set for hearing before the City Council within 15 days. The Collector shall give the applicant at least 10 days' notice of the time and place of the hearing in the manner prescribed under section 1.12.020 for serving notice of the action taken on the application for reclassification. The City Council shall consider all evidence adduced and shall adopt a resolution reflecting its decision. The decision of the City Council shall be final.

6.04.240 Appeals on decisions of business classifications.

Any applicant or Tax Certificate Holder aggrieved by the Business classification decision of the City shall have the right of appeal to an impartial Hearing Officer as outlined by section 1.12.030 of the Code. Such appeal shall be taken by filing with the City Clerk, within fifteen (15) days after the notice of the decision of the City, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for a hearing on such appeal within thirty (30) days after the receipt of the appeal. Notwithstanding chapter 1.12 of the Code, the decisions and orders of the Hearing Officer shall be final and conclusive.

6.04.250 Rules and regulations.

The City Manager may promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary or desirable to aid in the enforcement of the provisions of this chapter.

6.04.260 Referrals to other agencies—Prepayment of taxes.

- (a) Referrals to other agencies. The Collector may refer to any governmental agency any statement and all other information submitted by persons subject to the provisions of this chapter in connection with the conduct of a Business regulated or supervised or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations, or any other safeguard of the public interest. (b) Prepayment of taxes. The Collector may advise any person filing a statement in connection with the payment of a Business Tax for a new or other Business not actually in operation that such person may desire to defer the payment of the Business Tax until the person has obtained whatever approval may be required in order to transact and carry on the Business until such Business is actually in operation. If any person does, however, pay the Business Tax in advance of the commencement of the operation of the Business, but does not operate the Business because City or other governmental agency did not grant an approval which is required by regulation or law in order for such Business to be transacted and carried on, then the Business Tax shall be refunded in full, after the person has informed Collector in a timely manner, to the person having paid such tax minus the application fee as set by resolution of the City Council and revised from time to time.

6.04.270 Enforcement.

- (a) It shall be the duty of the Collector to enforce each and all of the provisions of this chapter, and the various City departments shall render such assistance in the enforcement as may from time to time be required by the Collector, City Manager, or City Council.
- (b) The Collector, in the exercise of the duties imposed upon the Collector shall examine, or cause to be examined, all places of Business in the City to ascertain whether the provisions of this chapter have been complied with.
- (c) The Collector, and each designee, and any police officer or duly authorized inspector, shall have the power and authority to enter free of charge at any reasonable time any place of Business or to question any person, which Business or person is, or there is reasonable cause to believe such Business or person may be, subject to the provision of this chapter, and demand an exhibition of proof of Business Tax payment.
- (d) The Collector's designees who have satisfactorily completed a certified course in "Powers of Arrest" may thereafter exercise the powers of arrest as specified in Section 836.5 of the California Penal Code on any person who has committed a misdemeanor or infraction in their presence which is a violation of the provisions of this chapter.

6.04.280 Remedies cumulative.

All remedies prescribed in this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

6.04.290 Severability.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter, and each section, subsection, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions be declared invalid or unconstitutional.

6.04.300 Violations—Penalties.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring, or attempting to procure, the Business Tax certificate provided for in this chapter shall be deemed guilty of an infraction.

Article 2. Taxes

6.04.310 Determination of tax due based on gross receipts plus annual registration tax.

- (a) Every person who engages in Business within the City shall pay a Business Tax based upon Gross Receipts at the specified category rates listed in this section.
- (b) A flat rate of \$50 will be applied to the Base Gross Receipts, as defined by section 6.04.010, regardless of which category the Business falls under. If the Business makes less than the Base Gross Receipts but more than \$1, the Business will only pay \$50 in Business Tax. Any dollar amount in excess of the Base Gross Receipt, will be calculated by the rates below.
For example, if a Business has a Gross Receipt of \$700,000 and is a Category 1 Business, the total amount of tax the Business would pay would be a \$50 (for the first \$500,000 [Base Gross Receipt]) + \$200 ($[\$700,000 - \$500,000] \times .001$) for a total of \$250 in Business Tax.
- (c) If a Business has no Gross Receipts, as defined in section 6.04.010, then the Business shall be deemed to produce Gross Receipts in an amount at least equal to the cost of maintaining such operations for such Business. The cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges, and other expenses.
- (d) Categories of Businesses:
 - (1) CATEGORY 1: General retail, restaurants, hotels, and tour operators and any

Business not otherwise classified ($0.001 \times$ Gross Receipts in excess of the Base Gross Receipts)

For example, if a Business has a Gross Receipt of \$700,000 and is a Category 1 Business, the total amount of tax the Business would pay would be a \$50 (for the first \$500,000 [Base Gross Receipt]) + \$200 ($[\$700,000 - \$500,000] \times .001$) for a total of \$250 in Business Tax.

(A) Any establishment or Business that conducts retail (the sale of goods to ultimate consumers, usually in small quantities), or wholesale (the sale of goods in quantity, as to retailers or jobbers, for resale), or restaurant (an establishment where meals, prepared food, and/or beverages are served to customers).

(B) "Tour operator" means a Business that provides tours in the City for Compensation.

(2) CATEGORY 2: Wholesale and Manufacturing ($0.0015 \times$ Gross Receipt in excess of the Base Gross Receipts):

For example, if a Business has a Gross Receipt of \$700,000 and is a Category 2 Business, the total amount of tax the Business would pay would be a \$50 (for the first \$500,000 [Base Gross Receipt]) + \$300 ($[\$700,000 - \$500,000] \times .0015$) for a total of \$350 in Business Tax.

(A) "Manufacturing" includes every person conducting or carrying on a Business consisting of manufacturing, packing, or processing any goods, wares, merchandise, or commodities at a fixed place of Business within the City or conducting or carrying on a Business of cold storage or refrigeration.

(3) CATEGORY 3: Contractors and Services ($0.002 \times$ Gross Receipt in excess of the Base Gross Receipt):

For example, if a Business has a Gross Receipt of \$700,000 and is a Category 3 Business, the total amount of tax the Business would pay would be a \$50 (for the first \$500,000 [Base Gross Receipt]) + \$400 ($[\$700,000 - \$500,000] \times .002$) for a total of \$450 in Business Tax.

(A) Contractors: every person, firm, or corporation conducting, managing, or carrying on the Business of contractor, subcontractor, or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, operating, or advertising as such, or representing himself as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction.

(B) "Services" means any professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the Business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part,

chapter, or section of this chapter, and shall include those professions that may require governmental certification or licensure, but not be limited to the services rendered by a person engaged in the practice or profession such as hairstylist, beautician or cosmetologist, aesthetician, or art instructor.

(4) CATEGORY 4: Professionals and Rental Units (Commercial and Residential) (0.003 X Gross Receipts in excess of the Base Gross Receipt):

For example, if a Business has a Gross Receipt of \$700,000 and is a Category 4 Business, the total amount of tax the Business would pay would be a \$50 (for the first \$500,000 [Base Gross Receipt]) + \$600 ($[\$700,000 - \$500,000] \times .003$) for a total of \$650 in Business Tax.

- (A) "Professional services" means any professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the Business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree, but not be limited to the services rendered by a person engaged in the practice or profession of law, medicine, surgery, dentistry, ophthalmologist, optometry, chiropractic, osteopathy, chiropody, dental technician, laboratory technician, physical therapist, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, real estate agent, real estate broker, stock/bond or security agent or broker, civil, mechanical, electrical, industrial, or other class of engineer, surveyor, geologist, appraiser, architect, accountant, real estate management, property management, income tax preparers, bookkeepers, income tax consultants, developer, or marriage counselors.
- (B) Any Business, individual, or entity that leases, rents, or otherwise provides property to another individual or entity for compensation.

**SAN JOAQUIN COUNTY REGISTRAR OF VOTERS
CERTIFICATION OF RESULTS OF THE
CITY OF TRACY GENERAL ELECTION
HELD ON TUESDAY, NOVEMBER 8, 2022**

I, Olivia Hale, Registrar of Voters for the County of San Joaquin, State of California, do hereby certify that this office has completed the canvass of the City of Tracy General Election, held on Tuesday, November 8, 2022, and that the following are the results of said election:

City of Tracy Mayor		
Number of Positions to be filled:		1
Candidate Name	Total Votes	100.00%
Nancy D. Young	9,592	43.96%
Eleassia Davis	7,056	32.34%
Mateo Bedolla	5,170	23.70%
City of Tracy Member, City Council (District At-Large)		
Number of Positions to be filled:		2
Candidate Name	Total Votes	100.00%
Dan Arriola	9,026	22.94%
Dan Evans	6,899	17.54%
Amrik Wander	6,197	15.75%
Alice English	6,096	15.50%
Wes Huffman	3,818	9.70%
Ameni Alexander	3,717	9.45%
William Muetzenberg	3,588	9.12%
City of Tracy Measure B		
Yes/No	Total Votes	100%
Yes	15,937	71.58%
No	6,244	28.15%

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 2nd day of December, 2022.



Olivia Hale

Olivia Hale
San Joaquin County Registrar of Voters

City of Tracy

OFFICIAL 2022 GENERAL ELECTION

Run Time 10:29 AM
Run Date 12/02/2022

San Joaquin County

General Election

11/8/2022

Page 1

Final Official Results

Registered Voters
23143 of 385679 = 6.00%

Precincts Reporting
384 of 384 = 100.00%

Paper Sheets Counted
23,150

CITY OF TRACY MAYOR - Vote for One

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
29	29	100.00%	23,143	49,666	46.60%

Choice	Party	Vote-by-Mail		Election Day		Provisional		Total	
NANCY D. YOUNG		8,768	45.05%	718	34.00%	106	43.80%	9,592	43.96%
ELEASSIA DAVIS		6,058	31.12%	921	43.61%	77	31.82%	7,056	32.34%
MATEO BEDOLLA		4,638	23.83%	473	22.40%	59	24.38%	5,170	23.70%
Cast Votes:		19,464	100.00%	2,112	100.00%	242	100.00%	21,818	100.00%
Undervotes:		1,071		135		30		1,236	
Overvotes:		4		2		0		6	
Unqualified Write-Ins:		79		11		0		90	
Unresolved Write-Ins:		0		0		0		0	

CITY OF TRACY CITY COUNCIL - Vote for Two

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
29	29	100.00%	23,143	49,666	46.60%

Choice	Party	Vote-by-Mail		Election Day		Provisional		Total	
DAN ARRIOLA		8,306	23.56%	618	16.88%	102	24.46%	9,026	22.94%
AMENI ALEXANDER		3,444	9.77%	237	6.47%	36	8.63%	3,717	9.45%
DAN EVANS		5,930	16.82%	890	24.30%	79	18.94%	6,899	17.54%
ALICE ENGLISH		5,271	14.95%	756	20.64%	69	16.55%	6,096	15.50%
WILLIAM MUETZENBERG		3,308	9.38%	260	7.10%	20	4.80%	3,588	9.12%
WES HUFFMAN		3,388	9.61%	375	10.24%	55	13.19%	3,818	9.70%
AMRIK WANDER		5,615	15.92%	526	14.36%	56	13.43%	6,197	15.75%
Cast Votes:		35,262	100.00%	3,662	100.00%	417	100.00%	39,341	100.00%
Undervotes:		5,680		804		127		6,611	
Overvotes:		110		19		0		129	
Unqualified Write-Ins:		74		16		0		90	
Unresolved Write-Ins:		0		0		0		0	

*** End of report ***

Measure B

OFFICIAL 2022 GENERAL ELECTION

Run Time 10:32 AM
Run Date 12/02/2022

San Joaquin County

General Election

11/8/2022

Page 1

Final Official Results

Registered Voters 23143 of
385679 = 6.00%

Precincts Reporting

384 of 384 = 100.00%

Paper Sheets Counted

23,150

MEASURE B

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
29	29	100.00%	23,143	49,666	46.60%

Choice	Party	Vote-by-Mail		Election Day		Provisional		Total	
YES		14,539	73.54%	1,218	56.15%	180	74.38%	15,937	71.85%
NO		5,231	26.46%	951	43.85%	62	25.62%	6,244	28.15%
Cast Votes:		19,770	100.00%	2,169	100.00%	242	100.00%	22,181	100.00%
Undervotes:		844		91		30		965	
Overvotes:		4		0		0		4	
Unqualified Write-Ins:		0		0		0		0	
Unresolved Write-Ins:		0		0		0		0	

*** End of report ***

TRACY CITY COUNCIL

RESOLUTION NO. _____

RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD IN THE CITY OF TRACY ON NOVEMBER 8, 2022, AND DECLARING THE RESULTS OF THE ELECTION AND SUCH OTHER MATTERS AS PROVIDED BY LAW

WHEREAS, A General Municipal Election (Election) was held and conducted in the City of Tracy, California, on Tuesday, November 8, 2022, as required by law; and

WHEREAS, Notice of the Election was given in time, form, and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the Election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, To reduce costs of the Election, pursuant to California Elections Code Section 10002, the City Council adopted Resolution 2022-083 on June 24, 2022 requesting that the Board of Supervisors of the County of San Joaquin consent to the consolidation of the City's General Municipal Election of November 8, 2022, with the Statewide General Election that was held by the County of San Joaquin and provide the assistance of the County Registrar of Voters for the Election; and

WHEREAS, Pursuant to Elections Code 10263, the City Council must adopt a resolution reciting the facts of the General Municipal Election held on November 8, 2022, declaring the results and other matters as provided by law, upon completion of the canvas; and

WHEREAS, The Registrar of Voters for San Joaquin County has canvassed the returns of the Election and has certified the results of the Election to this City Council as shown on in the Certificate of Results (Attachment A), which is incorporated herein and made a part of this Resolution; and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Tracy that it does declare, determine, and order as follows:

Section 1: The foregoing recitals are determined to be true and accurate and incorporated herein as findings.

Section 2: That the names of the persons voted for at the Election were as follows:

- The names of the persons voted for at the election for Mayor were Nancy D. Young, Eleassia Davis, and Mateo Bedolla.

- The names of the persons voted for at the election for Member of the City Council were Ameni Alexander, Dan Arriola, Alice English, Dan Evans, Wes Huffman, William Muetzenberg, Amrik Wander.

Section 3: That the Measure voted upon at the Election was as follows:

- Measure B - To ensure large businesses pay a proportionate share and provide funding for City services such as: repairing potholes/streets; keeping public areas healthy/safe/clean; maintaining neighborhood police patrols/9-1-1 emergency response/fire protection; supporting our economy/general government use, shall the measure to update the City of Tracy business taxes be adopted with typical rates between 0.1% and 0.3% of gross receipts, as described in the measure, providing an additional \$3,200,000 annually, until ended by voters? – Yes/No

Section 4: That the number of votes given at each precinct and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates and Measure B were as listed in the Certificate of Results (Attachment A).

Section 5: The City Council does declare and determine that: Nancy D. Young was elected as Mayor for the full term of two years; that Dan Arriola was elected as Member of the City Council for the full term of four years and Dan Evans was elected as Member of the City Council to serve a term of four years; and that Measure B passed.

Section 6: The City Clerk shall enter on the records of the Tracy City Council, a statement of the result of the Election showing (1) the whole number of ballots cast in the City; (2) the names of the persons voted for; (3) for which office each person was voted for; (4) the number of votes given at each precinct to each person; and (5) the total number of votes given to each person.

Section 7: That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Elections signed by the City Clerk and authenticated; that the City Clerk shall also administer the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk, upon which each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 13th day of December 2022 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.D

RECOMMENDATION

The City Council, by Motion, appoint a Council Member as the Mayor Pro Tempore of the Tracy City Council for a two-year term ending in December 2024.

EXECUTIVE SUMMARY

This item requests that the City Council appoint a Mayor Pro Tempore to serve a two-year term ending in December 2024.

BACKGROUND AND LEGISLATIVE HISTORY

Government Code Sections 34905 and 36801 require that the City Council choose one of its members to serve as Mayor Pro Tempore. In the absence of the Mayor, the Mayor Pro Tempore exercises the powers and duties of the Mayor. The Mayor Pro Tempore serves a two-year term.

ANALYSIS

The adopted City Council Code of Conduct states under Section 2.2.1 of Chapter 2 (Council Powers and Responsibilities), that the selection of the Mayor Pro Tempore occurs every two years in December, after the City receives the certified results of the election from the County Registrar of Voters.

FISCAL IMPACT

There is no fiscal impact associated with this discussion item.

STRATEGIC PLAN

This item does not relate to the Council's Strategic Plans.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that, by motion, the City Council appoint a Council Member as the Mayor Pro Tempore of the Tracy City Council for a two-year term ending in December 2024.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager